

United States Court of Appeals  
Fifth Circuit

**UNITED STATES COURT OF APPEALS** **FILED**

December 27, 2006

**FOR THE FIFTH CIRCUIT**

Charles R. Fulbruge III  
Clerk

---

No. 04-41362

---

D.C. Docket No. 2:03-CV-183

JAMES EDWIN HODGES; BEVERLY HODGES

Plaintiffs - Appellees-Cross-Appellants

v.

MACK TRUCKS INC

Defendant - Appellant-Cross-Appellee

-----  
No. 04-41764

JAMES EDWIN HODGES; BEVERLY HODGES

Plaintiffs - Appellants

v.

INDIANA MILLS & MANUFACTURING INC; ET AL

Defendants

MACK TRUCKS INC

Defendant - Appellee

-----  
No. 05-40686

JAMES EDWIN HODGES; BEVERLY HODGES

Plaintiffs - Appellees

v.

INDIANA MILLS & MANUFACTURING; ET AL

Defendants

ABF FREIGHT SYSTEM INC

Intervenor - Appellant

Appeals from the United States District Court for the  
Eastern District of Texas, Marshall.

Before DAVIS, BARKSDALE, and DeMOSS, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and was  
argued by counsel.

It is ordered and adjudged that the judgment of the District  
Court is vacated, and the cause is remanded to the District Court  
for further proceedings in accordance with the opinion of this  
Court.

IT IS FURTHER ORDERED that each party bear its own costs on  
appeal.

DAVIS, Circuit Judge, dissenting:

ISSUED AS MANDATE:

A True Copy  
Attest

Clerk, U.S. Court of Appeals, Fifth Circuit

By

Deputy

New Orleans, Louisiana